IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.275 OF 2005

Shri Eknath Atmaram Patil ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

.....

Mrs.Smita R.Kadu-Gawai for Petitioner.

Mr.B.H.Mehta, A.P.P. for Respondents.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 14, 2005.

P.C.

1. Heard Counsel for the parties.

2. Rule. Rule made returnable forthwith, by consent. Mr.Mehta, A.P.P. waives notice for Respondents.

3. As short question is involved, the matter is taken up for final disposal forthwith, by consent.

4. The grievance in this Petition is that accused involved in the same case are treated differently. The brief facts are that ten accused were named by the prosecution. The trial ended in conviction of six accused. Two accused, however, died while in jail. Petitioner is one out of the remaining four accused. One amongst them was granted furlough leave, who availed of the same, but absconded and did not report back. So far as the Petitioner and the other two accused are concerned, even their request for furlough leave was acceded to. The two other accused were released as per the order granting them furlough leave. Insofar as the Petitioner is concerned, although order has been passed in favour of the Petitioner, so as to release him on furlough leave but final formalities were not complied by the Authorities on the ground that the co-accused was absconding. That reason squarely applied even to the case of other two accused, who were, however, released inspite of abscontion of the 4th co-accused. On this premiss, it is argued that the Petitioner has been treated differently by the

Authorities, even though it is well settled that furlough leave is matter of right.

5. There is substance in the submissions canvassed on behalf of the Petitioner. Learned A.P.P. fairly accepts that the position as stated in the Petition and across the bar is supported by the record brought by the concerned Officer, who is present in Court. If it is so, this Petition ought to succeed by issuing directions to the appropriate Authority to release the Petitioner on furlough leave as per rules, forthwith.

6. Petition disposed of accordingly.

A.M.KHANWILKAR, J.